

§ 4.1161

notice of violation under section 521(a)(3) of the Act; and

(b) Orders of cessation which are not subject to expedited review under § 4.1180 or the modification, vacation, or termination of such an order of cessation under section 521(a)(2) or section 521(a)(3).

§ 4.1161 Who may file.

A permittee issued a notice or order by the Secretary pursuant to the provisions of section 521(a)(2) or section 521(a)(3) of the Act or any person having an interest which is or may be adversely affected by a notice or order subject to review under § 4.1160 may file an application for review with the Hearings Division, OHA, 801 North Quincy Street, Arlington, Va. 22203.

[43 FR 34386, Aug. 3, 1978, as amended at 67 FR 4368, Jan. 30, 2002]

§ 4.1162 Time for filing.

(a) Any person filing an application for review under § 4.1160 *et seq.* shall file that application within 30 days of the receipt of a notice or order or within 30 days of receipt of notice of modification, vacation, or termination of such a notice or order. Any person not served with a copy of the document shall file the application for review within 40 days of the date of issuance of the document.

(b) No extension of time will be granted for filing an application for review as provided by paragraph (a) of this section. If an application for review is not filed within the time period provided in paragraph (a) of this section, the application shall be dismissed.

[51 FR 16321, May 2, 1986]

§ 4.1163 Effect of failure to file.

Failure to file an application for review of a notice of violation or order of cessation shall not preclude challenging the fact of violation during a civil penalty proceeding.

§ 4.1164 Contents of application.

Any person filing an application for review shall incorporate in that application regarding each claim for relief—

(a) A statement of facts entitling that person to administrative relief;

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(b) A request for specific relief;

(c) A copy of any notice or order sought to be reviewed;

(d) A statement as to whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1165 Answer.

(a) Where an application for review is filed by a permittee, OSM as well as any other person granted leave to intervene pursuant to § 4.1110 shall file an answer within 20 days of service of a copy of such application.

(b) Where an application for review is filed by a person other than a permittee, the following shall file an answer within 20 days of service of a copy of such application—

(1) OSM;

(2) The permittee; or

(3) Any other person granted leave to intervene pursuant to § 4.1110.

§ 4.1166 Contents of answer.

An answer to an application for review shall incorporate—

(a) A statement specifically admitting or denying the alleged facts stated by the applicant;

(b) A statement of any other relevant facts;

(c) A statement whether an evidentiary hearing is requested or waived; and

(d) Any other relevant information.

§ 4.1167 Notice of hearing.

Pursuant to section 525(a)(2) of the act, the applicant and other interested persons shall be given written notice of the time and place of the hearing at least 5 working days prior thereto.

§ 4.1168 Amendments to pleadings.

(a) An application for review may be amended once as a matter of right prior to the filing of an answer and thereafter by leave of the administrative law judge upon proper motion.

(b) Upon receipt of an initial or amended application for review or subsequent to granting leave to amend, the administrative law judge shall issue an order setting a time for filing an amended answer if the judge determines that such an answer is appropriate.